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**SEP 30 2005**

**OFFICE OF PETITIONS**

In re Application of : DECISION ON APPLICATION  
Gregg et al. : FOR PATENT TERM ADJUSTMENT  
Application No. 09/839,483 :  
Filed: April 20, 2001 :  
Attorney Docket No. ROC920000334US1 :

This is a decision on the "Request For Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance (37 C.F.R. § 1.705)" received in the Office on March 1, 2005. Applicants request that the Applicant Delay indicated in the PAIR history be corrected from thirty-three (33) to two (2) days.

The application for Patent Term Adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred sixty-nine (**669**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 17, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 638 days. The instant application for patent term adjustment filed March 1, 2005, was timely filed<sup>1</sup>. Applicants

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<sup>1</sup> PALM records indicate that the Issue Fee payment was also received on March 1, 2005.

dispute the reduction of 33 days associated with the filing of a response to the non-final Office action mailed April 21, 2004, on August 23, 2004. Applicants assert that the response was actually filed on July 23, 2004. Accordingly, the period of reduction pursuant to 1.704(b) should be 2 days, not 33 days. In support thereof, applicants include a copy of their Response to the First Office Action and the Certificate of Fax which was received in the Office on July 23, 2004.

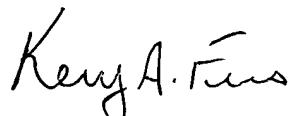
A review of the record confirms that the response was received in the Office on July 23, 2004. The response is present in the application file with a date of receipt thereon of July 23, 2004.

Thus, it is concluded that the patent term adjustment should not have been reduced by 31 days, but by 2 days, for this delay.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publishing Division for processing into a patent. The revised patent term adjustment indicated on the patent will include any additional patent term earned for Office failure to issue the patent within four months after the date the issue fee was paid and all outstanding requirements were satisfied.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen.